

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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**NOTICE OF PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING
OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
AND NOTICE OF PROPOSED CHANGES TO TITLE 8
OF THE CALIFORNIA CODE OF REGULATIONS**

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting, Public Hearing, and Business Meeting:

PUBLIC MEETING: On **April 21, 2011**, at 10:00 a.m.
in the Auditorium of the State Resources Building,
1416 9th Street, Sacramento, California.

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

PUBLIC HEARING: On **April 21, 2011**, following the Public Meeting,
in the Auditorium of the State Resources Building,
1416 9th Street, Sacramento, California.

At the Public Hearing, the Board will consider the public testimony on the proposed changes to occupational safety and health standards in Title 8 of the California Code of Regulations.

BUSINESS MEETING: On **April 21, 2011**, following the Public Hearing,
in the Auditorium of the State Resources Building,
1416 9th Street, Sacramento, California.

At the Business Meeting, the Board will conduct its monthly business.

DISABILITY ACCOMMODATION NOTICE: Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Occupational Safety and Health Standards Board should contact the Disability Accommodation Coordinator at (916) 274-5721 or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

**OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD**

JOHN D. MACLEOD, Chairman

NOTICE OF PROPOSED CHANGES TO TITLE 8
OF THE CALIFORNIA CODE OF REGULATIONS
BY THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4 and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, General Industry Safety Orders and the Petroleum Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **April 21, 2011**.

1. TITLE 8: **GENERAL INDUSTRY SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 7, Article 107
Section 5155
Airborne Contaminants

2. TITLE 8: **PETROLEUM SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 15
Article 2, Section 6755
Article 8, New Section 6799.1
Chain or Wire Rope Access Equipment (Jacob's Ladder)

Descriptions of the proposed changes are as follows:

1. TITLE 8: **GENERAL INDUSTRY SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 7, Article 107
Section 5155
Airborne Contaminants

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

Section 5155, Airborne Contaminants, establishes minimum requirements for controlling employee exposure to specific airborne contaminants. This section specifies several types of airborne exposure limits, requirements for control of skin contact, workplace environmental monitoring through measurement or calculation, and medical surveillance requirements. California periodically amends the airborne contaminants table (Table AC-1) in this standard to keep it consistent with current information regarding harmful effects of exposure to these substances and other new substances not listed. The latest Airborne Contaminants standard was approved by OAL on February 3, 2010 and became effective August 3, 2010. Consistent with past practice, the roster of substances addressed in this rulemaking originated with changes to the Threshold Limit Values (TLVs) published by the American Conference of Governmental Industrial Hygienists (ACGIH). This rulemaking considered changes in ACGIH TLVs dating from after 2001.

The Division of Occupational Safety and Health (Division), in developing this and past proposals, has convened advisory committees to consider and make recommendations regarding the substances in the base list. The substances with amended Permissible Exposure Limits (PELs) in this proposal were first considered by the Division's Health Expert Advisory Committee (HEAC) in meetings between November 2007 and March 2009. The HEAC independently evaluated the health basis of the changes made to TLVs using the ACGIH documentation, presentations and additional documentation provided by interested parties, documents referred to in the ACGIH documentation, and other documents provided by the members of the Committee. As in the last round of work on PELs by the Division's advisory committee from 2001 to 2004, technical assistance was provided to the HEAC by staff of the Office of Environmental Health Hazard Assessment and the Hazard Evaluation System and Information Service (HESIS) of the California Department of Public Health. In addition, informal public comment was invited on the PELs recommended by the HEAC for potential feasibility and cost issues at a meeting of the Division's Feasibility Advisory Committee (FAC) on May 28, 2009. The meetings of both the HEAC and the FAC were open to the public.

The exposure limits of the following substances are proposed to be lowered:

carbon disulfide
hydrogen fluoride
sulfuric acid
toluene

The effect of these amendments is to reduce the risk of material impairment of health or functional capacity of employees exposed to these four substances.

All proposed changes to Section 5155 are considered to be at least as effective as or more stringent than the federal OSHA requirements for these substances found in 29 CFR 1910.1000, Airborne Contaminants.

COST ESTIMATES OF PROPOSED ACTION

This rulemaking proposal contains proposed revisions of PELs for four substances. The primary users of those substances are the private industrial and chemical sectors. The exposure limits proposed are consistent with recommendations of the ACGIH or with scientific findings, of which the professional health and safety staffs and consultants of those entities should be aware. Many of those entities already seek to control employee exposures to these levels in the interest of business continuity and minimization of tort and workers compensation liability. Therefore, the additional expenditures by these entities to comply with the revised standard are estimated to be insignificant to none.

Informal comments on potential cost impacts were actively sought in the course of development of this proposal and a FAC public meeting was held specifically to receive such comments verbally and to provide an opportunity for commenter discussion. The only potentially cost-related comment received in this process was from Honeywell with regard to hydrogen fluoride. This comment suggested that a PEL consistent with the ACGIH TLV would reduce confusion and contribute to more uniform application of the standard. This comment was discussed at some length in the meeting of the FAC which concluded that with respect to individual substances this was a matter of policy that the committee could not decide. The commenter did not suggest the specific costs that could be associated with the inconsistency that was their stated concern and it was concluded that the potential costs noted in their comment with respect to hydrogen fluoride are not significant.

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The Standards Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Standards Board has made a determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

This determination of no significant adverse economic impact directly affecting businesses was made using the advice provided by affected stakeholders during the Division's feasibility advisory committee held on May 28, 2009. See also the section under "Cost Estimates of Proposed Action."

Cost Impact on Private Persons or Businesses

The Standards Board is not aware of any cost impact that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under “Determination of Mandate.”

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed standard does not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, the standard does not constitute a “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.”

The California Supreme Court has established that a “program” within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

The proposed standard does not require local agencies to carry out the governmental function of providing services to the public. Rather, the standard requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed standard does not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

The proposed standard does not impose unique requirements on local governments. All state, local and private employers will be required to comply with the prescribed standards.

EFFECT ON SMALL BUSINESS

The Standards Board has determined that the proposed amendments may affect small businesses. However, no adverse economic impact is anticipated.

ASSESSMENT

The adoption of the proposed amendments to the standard will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

REASONABLE ALTERNATIVES CONSIDERED

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

2. **TITLE 8:** **PETROLEUM SAFETY ORDERS**

Division 1, Chapter 4, Subchapter 15

Article 2, Section 6755

Article 8, New Section 6799.1

Chain or Wire Rope Access Equipment (Jacob's Ladder)

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

This rulemaking was initiated as a result of the Occupational Safety and Health Standards Board's (Board) action regarding OSHSB Petition File No. 512 submitted by Ms. Colleen Kraus, Process Safety Director of Valero Refining Company in Benicia, California. In a letter dated October 30, 2009, the Petitioner proposed addressing the use of chain and cable ladders, also known as Jacob's ladders, in the Petroleum Safety Orders. The Petitioner noted that there are no California standards, American National Standards Institute references or American Ladder Institute standards that govern the manufacturing and safe use of chain and cable ladders for the petrochemical industry. Federal regulations refer to the use of Jacob's ladders in the longshoring and construction regulations but not in the petrochemical industry.

The lack of standards could threaten worker safety if the ladder is not manufactured properly, in disrepair or used incorrectly. The Petitioner submitted a proposed chain and cable ladder standard modeled after a Department of Defense Military Specification document dated May 21, 1957. The Division of Occupational Safety and Health (Division) petition evaluation recommended a change in terminology from "chain and cable ladders" to "chain or wire rope access equipment" to minimize confusion in terms of whether these devices are ladders. Further, the Division opined that rather than relying on a 1957 manual, the industry would be better served if this device is approved pursuant to Section 3206 of the General Industry Safety Orders (GISO) which allows for a variety of more conventional approval methods for industrial equipment. These and other comments were carefully considered by Board staff during the advisory committee proceedings held in accordance with the Board's petition decision.

Section 6755. Definitions.

Section 6755 provides definitions applicable to the equipment and operations in the petroleum safety orders pertaining to refining, transport and handling. An amendment is proposed to add a definition of "chain or wire rope access equipment" to refer to specialty devices specifically designed for constricted locations. The proposal also includes a definition of "competent person," a term used in new Section 6799.1. These proposed amendments are consistent with the federal definitions in 29 CFR 1926.32(f), Safety and Health Regulations for Construction. The amendments have the effect of clarifying the meaning of standards in which the defined terms are used.

New Section 6799.1. Use of Chain or Wire Rope Access Equipment.

Proposed Section 6799.1 provides general requirements for the use, load testing, maintenance and inspection of chain or wire rope access equipment, ensuring safe use through administrative procedures (use plan) and employee training.

New subsection (a) addresses the scope and application of the proposed requirements and states explicitly that the use of chain or wire rope access equipment shall only be permitted when no other feasible method of access is available. This subsection will ensure that employers and employees understand when the proposed requirements apply and when chain or wire rope access equipment is permitted for use.

New subsection (b) requires that all chain and wire rope access equipment be approved in accordance with GISO Section 3206. This subsection will ensure that the equipment used by the employer is built and designed in accordance with good engineering practice and will not fail catastrophically when subjected to a load.

New subsections (c)(1) and (2) address inspection and load testing of chain and wire rope access equipment. These proposed requirements will ensure that all chain and wire rope access equipment is safe for its intended use and will not fail catastrophically, resulting in serious employee injury or fatality.

New subsection (d) requires that a written equipment use plan be made available to the Division, that the plan describes how and where the chain and wire rope access equipment is to be used and that the plan state why the use of chain and wire rope access equipment is the only feasible method for providing access. In addition, the plan must address installation details, inspection instructions, maintenance instructions and a requirement that the employer keep a maintenance log. The proposed requirements will ensure that employees will use the chain or wire rope access equipment in a safe manner and not subject them to excessive loads or stresses that could result in catastrophic failure which could result in serious employee injury or fatality.

New subsection (e) addresses the use of a rescue retrieval system by employees who climb chain and wire rope access equipment. This subsection also addresses the need for secure anchorage of the access equipment with the exception of moments when the equipment must be retrieved or installed. Subsection (e) also addresses safe climbing methods and precautions to ensure that employees do not slip off the equipment or come in contact with energized conductors. These requirements will ensure employees are reasonably protected from falls and other hazards associated with the use of this equipment.

New subsection (f) addresses employee training and requires employers to assure that those employees who use chain and wire rope access equipment will be able to recognize hazards associated with this equipment and will know the proper use of rescue retrieval equipment. These requirements will ensure employees will have the knowledge to protect themselves when using chain or wire rope access equipment.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made a determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. Impact on businesses is minimal as the petroleum industry has been using these devices for decades for routine maintenance and inspection operations. The proposal provides guidance in the manufacturing and safe use of chain or wire rope access equipment strictly for the petrochemical industry.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under “Determination of Mandate.”

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed regulations do not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, these regulations do not constitute a “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.”

The California Supreme Court has established that a “program” within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

The proposed regulations do not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulations require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed regulations do not in

any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

These proposed regulations do not impose unique requirements on local governments. All state, local and private employers - will be required to comply with the prescribed standard.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments may affect small businesses. However, no economic impact is anticipated.

ASSESSMENT

The adoption of the proposed amendments to this regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

REASONABLE ALTERNATIVES CONSIDERED

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

A copy of the proposed changes in STRIKEOUT/UNDERLINE format is available upon request made to the Occupational Safety and Health Standard Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721. Copies will also be available at the Public Hearing.

An INITIAL STATEMENT OF REASONS containing a statement of the purpose and factual basis for the proposed actions, identification of the technical documents relied upon, and a description of any identified alternatives has been prepared and is available upon request from the Standards Board's Office.

Notice is also given that any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. It is requested, but not required, that written comments be submitted so that they are received no later than April 15, 2011. The official record of the rulemaking proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on April 21, 2011, will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments should be mailed to the address provided below or submitted by fax at (916) 274-5743 or e-mailed at oshsb@dir.ca.gov. The Occupational Safety and Health Standards Board may thereafter adopt the above proposals substantially as set forth without further notice.

The Occupational Safety and Health Standards Board's rulemaking file on the proposed actions including all the information upon which the proposals are based are open to public inspection Monday through Friday, from 8:30 a.m. to 4:30 p.m. at the Standards Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833.

The full text of proposed changes, including any changes or modifications that may be made as a result of the public hearing, shall be available from the Executive Officer 15 days prior to the date on which the Standards Board adopts the proposed changes.

Inquiries concerning either the proposed administrative action or the substance of the proposed changes may be directed to Marley Hart, Executive Officer, or Mike Manieri, Principal Safety Engineer, at (916) 274-5721.

You can access the Board's notice and other materials associated with this proposal on the Standards Board's homepage/website address which is <http://www.dir.ca.gov/oshsb>. Once the Final Statement of Reasons is prepared, it may be obtained by accessing the Board's website or by calling the telephone number listed above.

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

JOHN D. MACLEOD, Chairman

NOTICE OF ADOPTION OF
REGULATIONS
INTO TITLE 8, CALIFORNIA CODE OF REGULATIONS
BY THE
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

After proceedings held in accordance with and pursuant to the authority vested in Sections 142, 142.3 and 142.4, of the Labor Code to implement, interpret, or make specific, the Occupational Safety and Health Standards Board, by a majority vote, adopted additions, revisions, or deletions to the California Code of Regulations as follows:

1. Title 8, Division 1, Chapter 4, Subchapter 7, General Industry Safety Orders, Article 116, Section 5291; **Firing of Explosive Materials (Blasting Operations).**

Heard at the October 21, 2010, Public Hearing; adopted on December 17, 2010; filed with the Secretary of State on February 1, 2011; and will become effective on March 3, 2011.

Copies of this standard are available upon request from the Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721.

If you have Internet access, visit the Occupational Safety and Health Standards Board by going to: <http://www.dir.ca.gov/oshsb> and follow the links to the Standards Board. This information is updated monthly. The Standards Board's e-mail address is: oshsb@dir.ca.gov.

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Marley Hart, Executive Officer